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OFFICE OF PETITIONS

In re Application of :
Shane Record :
Application No. 10/776,080 :
Filed: February 11, 2004 :
Attorney Docket No. WBELT-007XX :

ON PETITION

This is a decision on the renewed petitions filed November 13, 2006 under 37 CFR 1.137(b) to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before April 20, 2006. On May 8, 2006 a petition under 37 CFR 1.137(b) was filed along with a Request for Continued Examination (RCE) under 37 CFR 1.114. The RCE was deemed improper and the petition was dismissed in a decision mailed August 17, 2006. Thereafter, on September 6, 2006, a renewed petition under 37 CFR 1.137 was filed, along with a petition to withdraw from issue under 37 CFR 1.313(c)(2). Both petitions were dismissed in a decision mailed September 13, 2006. In response, on November 13, 2006, petitioner renews the petition to revive under 37 CFR 1.137(b) and the petition to withdraw from issue under 37 CFR 1.313(c)(2).

The petition to revive satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay¹.

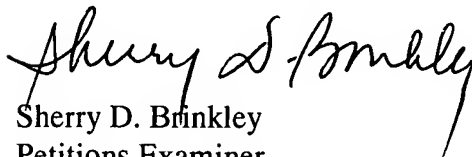
¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement of unintentional delay is found in the original petition filed May 8, 2006. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.²

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 3651 for further processing of the request for continued examination under 37 CFR 1.114.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

²The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**